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### **REMARKS**

Reconsideration and reexamination of this application is requested in view of the above amendments and the following remarks. Claims 1 and 10 are amended. New claims 18-20 are added. Claims 1, 3, 4, 7, 10, 13, 15 and 18-20 are pending in this application.

#### **I. Claim amendments**

The amendments to claims 1 and 10 are supported by the original disclosure, for example Figures 1-8.

New claims 18 and 19 are supported by the original disclosure, for example Figures 1-8.

New claim 20 is supported by the original disclosure, for example Figures 3-8.

No new matter has been added.

#### **II. 35 USC 103(a) rejections**

Claims 1, 3, 4, 7, 10, 13 and 15 are rejected under 35 USC 103(a) as being unpatentable over Kostun (6,427,112) or Akihisa et al. (6,155,224) in view of Hirano et al (6,655,337). Applicants respectfully traverse.

Kostun, Akihisa and Hirano do not teach or suggest an intake device as recited in claims 1 and 10 where the intake pipe and the connection pipe extend from the same side of the air cleaner case. By extending the intake pipe and the connection pipe from the same side of the air cleaner case, and having the other recited features, a compact air intake structure is provided for the off-road vehicle that has limited layout space.

Kostun discloses a device where an intake port 142 enters and extends from one side of an air cleaner 148, and an air tube 154 that exits and extends from an opposite side of the air cleaner 148 (see Figure 8). Kostun does not teach or suggest an arrangement where the intake port 142 and the air tube 154 extend from the same side of the air cleaner 148. Kostun discloses a noise reduction system for automobiles. Kostun is not concerned with space limitations that might be imposed on his noise reduction system, and therefore does not suggest a need for a compact structure as claimed.

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Akihisa discloses an arrangement where an intake pipe 105 enters and extends from one side of an air cleaner 100, and a pipe 106 exits and extends from an opposite side of the air cleaner 100 (see column 1, lines 18-21; and Figure 14). Akihisa does not teach or suggest an arrangement wherein the intake pipe 105 and the pipe 106 extend from the same side of the air cleaner. Akihisa does not disclose the presence of space limitations that might be imposed on his noise reduction system, and therefore does not suggest a need for a compact structure as claimed.

Hirano is characterized as teaching that it is old in the art to substitute a carburetor for a throttle body. Without conceding that this characterization is accurate, Hirano does not teach or suggest an intake device where an intake pipe and a connection pipe extend from the same side of an air cleaner case.

In rejecting the prior claims, the Examiner suggests that locating the resonators within the width of the air cleaner case is merely a rearranging of parts, and a change in size, citing In re Japikse and In re Rose, respectively, for support.

Applicants disagree that locating the resonators within the width of the air cleaner case, or the intake pipe and the connection pipe extend from the same side of the air cleaner case as now recited in claims 1 and 10, are a rearranging of parts or a change in size. As clearly stated in MPEP 2144.04(VI)(C), the fact that parts of references could be rearranged to meet the claim language is not by itself sufficient to support a finding of obviousness. The prior art must provide a motivation or reason for the worker in the art, without the benefit of applicant's specification, to make the changes in the cited references.

The rejection has not set forth where such motivation or reason is found in Kostun, Akihisa or Hirano. It appears that the only motivation or reason for making such a change comes solely from Applicant's disclosure, which is impermissible hindsight. Therefore, the Examiner has failed to establish a prima facie case of obviousness with respect to prior claims 1 and 10.

For at least these reasons, claims 1 and 10 are patentable over Kostun, Akihisa and Hirano. Claims 3, 4, 7, 13 and 15 depend from claims 1 or 10 and are patentable

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along with those claims and need not be separately distinguished. Applicants do not concede the propriety of the rejections to the dependent claims.

### III. New claims 18-20

New claims 18 and 19 depend from claims 1 and 10, respectively, and are patentable along with those claims. In addition, Kostun, Akihisa and Hirano do not teach or suggest an arrangement where the intake pipe and the connection pipe extend generally forwardly from the air cleaner case, and the carburetor, the first resonator, and the second resonator are located forward of the air cleaner case.

With respect to claim 20, Kostun, Akihisa and Hirano do not teach first and second resonators disposed on the same side of the intake pipe and the connection pipe and disposed at different vertical heights relative to each other.

### IV. Conclusion

In view of the above, early issuance of a notice of allowance is solicited. Any questions regarding this communication can be directed to the undersigned attorney, Curtis B. Hamre, Reg. No. 29,165 at (612) 455-3802.



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Respectfully submitted,

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By:

A handwritten signature in cursive script, appearing to read "Curtis B. Hamre".

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